

Cooperatives; telephone; non-member income. For taxable years of a mutual or cooperative telephone company beginning after 1974, the 85 percent member-income test for exemption under section 501(c)(12) of the Code is applied without taking into account income received or accrued from another telephone company for the performance of communication services involving the completion of long distance calls to, from, or between members of the mutual or cooperative telephone company. Rev. Rul. 74-362 obsoleted.

FACTS AND LAW

Section 501(c)(12) of the Internal Revenue Code provides for the exemption of cooperative telephone companies that derive at least 85 percent of their annual income from payments from members.

Rev. Rul. 74-362, 1974-2 C.B. 170, holds that a cooperative telephone company providing only local telephone service to its members, but obtaining connecting long distance service by agreement with a nonmember company, may not adjust its gross income by offsetting income due from long distance tolls collected by both companies against expenses for services rendered by the nonmember company to the cooperative's members. Rather, its gross income must include all the member and nonmember income from the long distance service to determine whether member income meets the 85 percent requirement for exemption under section 501(c)(12) of the Code.

Section 501(c)(12) of the Code was amended by Pub. L. No. 95-345, section 1, 1978-2 C.B. 356. The amendment provides that, for taxable years of a mutual or cooperative telephone company beginning after December 31, 1974, the 85 percent member-income test of section 501(c)(12) is applied without taking into account income received or accrued from another telephone company for the performance of communication services involving the completion of long distance calls to, from, or between members of the mutual or cooperative telephone company. See section 1.501(c)(12)-1(c) of the Income Tax Regulations.

HOLDING

Rev. Rul. 74-362 is obsoleted with respect to taxable years beginning after December 31, 1974, the effective date of Pub. L. No. 95-345.